

Fifty-fifth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2379**

Introduced by

Senators Robinson, Nalewaja, St. Aubyn

Representatives Keiser, Poolman

1 A BILL for an Act to amend and reenact sections 18-12-04, 40-28-03, 43-19.1-28, and  
2 61-35-102 of the North Dakota Century Code, relating to construction supervision by engineers.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 18-12-04 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **18-12-04. Employment of registered architects and engineers.** All plans and  
7 specifications for construction, except agricultural sheds and barns, the monetary worth of  
8 which is twenty-five thousand dollars or more, must be prepared by and the construction  
9 administration and construction observation services supervised by architects or engineers  
10 registered in this state. The architect or engineer is legally responsible for designing the  
11 building in accordance with the provisions of this chapter of adequate strength so as to resist  
12 fire, and constructing the building in a workmanlike manner, according to the plans and  
13 specifications as approved. All projects where the tax money exceeds two thousand dollars  
14 must be submitted to the department of public instruction or the board of higher education for  
15 approval.

16 **SECTION 2. AMENDMENT.** Section 40-28-03 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **40-28-03. Municipality may contract work when property owner fails to make**  
19 **service connections as required.** If the connection with the sewer, main, wire, or conduit is  
20 not made by the owner of the property within the time specified in the notice given by the city  
21 auditor, the governing body shall order such work done by such person as it may contract with  
22 therefor at the expense of the lot or parcel of land adjoining each improvement or service  
23 connection. Such work shall be ~~done~~ administered and observed under the supervision of the  
24 engineer acting for the municipality. The expense of making such connection, including the

1 expense of giving all notices relating thereto, of making the assessments therefor, and of any  
2 other nature, shall be assessed by the engineer against the lot or parcel of land properly  
3 chargeable therewith, and the assessment list shall be filed in the office of the city auditor. The  
4 city auditor shall cause such list, together with a notice of the time when and place where the  
5 governing body will meet to consider the approval thereof, to be published in one issue of the  
6 official newspaper of the municipality at least ten days prior to the meeting of the governing  
7 body at which the approval of the assessment will be considered.

8 **SECTION 3. AMENDMENT.** Section 43-19.1-28 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **43-19.1-28. Public works.** This state and its political subdivisions, including counties,  
11 cities, townships and legally constituted boards, districts, commissions, or authorities, may not  
12 engage in the construction of public works involving the practice of professional engineering as  
13 herein defined when the contemplated expenditure for the project exceeds the sum of fifty  
14 thousand dollars, unless the engineering drawings and specifications and estimates have been  
15 prepared by, and the construction is administration and construction observation services are  
16 executed under the supervision of, a registered professional engineer. Any engineering  
17 contract executed in violation of this section is null and void.

18 **SECTION 4. AMENDMENT.** Section 61-35-102 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **61-35-102. Conditions and terms.** A contract let under this chapter requires the work  
21 to be done pursuant to the plans and specifications on file in the office of the district, subject to  
22 the approval of the engineer acting for the district, and must provide:

- 23 1. That the board has the right to suspend the work at any time for improper  
24 construction and to relet the contract or to order a reconstruction of the work as to  
25 any part improperly done.
- 26 2. The time within which the work must be completed.
- 27 3. The period of time for which the work must be guaranteed as to workmanship and  
28 materials.
- 29 4. The fund from which the contract price is to be paid by the district.
- 30 5. That the consideration expressed in the contract is payable only in bonds drawn on  
31 the fund described in the contract.

- 1           6.    That the district assumes and incurs no general liability under the contract.
- 2           7.    That failure of the engineer to reject work and materials that are not up to
- 3               specifications and acceptance of the job by the engineer does not release the
- 4               contractor from liability for any failure on the contractor's part to perform work or
- 5               furnish materials in accordance with the plans and specifications.
- 6    The engineer acting for the district shall ~~supervise and inspect~~ provide construction
- 7    administration and observation of the work during its progress. In addition to any rights a
- 8    district may have under its contract for construction of part or all of an improvement after a
- 9    contract has been awarded and before work under the contract has been completed, a district,
- 10   with the consent of the contractor and without advertising for bids, may order additional work
- 11   done by that contractor of the same character as the work that was contracted for, whether
- 12   within or without the improvement district for which the original contract was made, and upon
- 13   the same terms and conditions specified in the original contract except as to time of
- 14   performance, and at the same prices for the additional work; provided, that the total price
- 15   payable to the contractor for the additional work may not exceed twenty percent of the amount
- 16   estimated by the engineer for the district to be payable for that character of work under the
- 17   original contract.